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Michelle H [REDACTED] (B.D. [REDACTED]/1991); Natalie H [REDACTED] (B.D. [REDACTED]/1992)

Date of Report: 5/29/2008

In preparing this update report I have relied primarily upon my observations of Natalie and Michelle in their classrooms at Roosevelt High School on May 19<sup>th</sup> and 21<sup>st</sup>, 2008, my previous reports of 1/29/2001 and 6/20/2003, Dr. Dan LeGoff's Neurodevelopmental Re-Evaluations of 4/23/04 and 4/26/2004, my deposition of 1/14/2000 and on the Hearing Officer's Decision of 1/31/2000.

#### Background

Both girls were known to have autism spectrum disorders at very early ages. Neither received the free appropriate education to which they were entitled, according to the Hearing Officer. The expert witnesses who testified at the hearing (Drs. B. Siegel, D. LeGoff, and B. Bateman) all testified that the several years delay in providing the necessary services caused irreparable harm to the girls.

#### Current Observation of Michelle

M is now 17-3 years old. She is a tall, slender, attractive Asian-Caucasian young woman who appears to be somewhat "delicate". She was observed in her classroom at Roosevelt High School. Five students were in the room, each with a 1:1 aide. The teacher and one additional assistant were also present. The five dyads sat in quiet pairs at a large table. One student, at the end of the table, had two adults present at all times. No communication of any sort was observed

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between or among any of the 5 students. No student, except M was heard to speak, although there were occasional soft, unintelligible noises and some soft clapping. Generally, the room was very structured, quiet and free of movement until two students were dressed in cap and gown by their respective aides and taken from the classroom to practice "graduation". From 8:30 to 10:00 academics were scheduled. At the direction of her aide, M selected an arithmetic worksheet, with slight staring and hand movements as she did so. She then worked quietly and independently on the page and was not distracted by others. While she worked on the page, her visible mannerisms were counted. Each lasted only a few seconds and included looking up and staring, hand clapping, muttering, nodding head, smiling, mouthing words, expansive arm movement as though reaching, and most frequently, putting finger (or hand) to her nose or hair. These "stims" occurred at a rate of approximately one per minute and a bit faster between activities. In and of themselves they are quite harmless, however, they draw negative attention to M, especially the hand flapping.

When M yawned, her aide quickly modeled hand-over-mouth and M followed suit immediately. She finished her worksheet of arithmetic problems (e.g.,  $649 + 487$ ) which she did on a calculator and neatly wrote the answers on the pages. Next, she was given her "shopping book" (pictures of food with prices, taken from ads) and a list of foods. She found the food in the book and copied the price onto the worksheet list. Given the ease and speed with which she located each food it was apparent she is very familiar with this activity. When I asked to see her current IEP to determine the purpose of this activity I was refused on the grounds that the DOE representative (Alida Gandy) who accompanied me on this observation did not have written permission from the parents.

Later, when the schedule (written on board) called for pre-vocational activities (10:15-11:40 daily) one girl was moved to a different table where two adults assisted her in placing macadamia nuts, one at a time, in a specially constructed nut cracker. When the nut was in place she pulled the handle to crack the nut. During this period M stuffed candies into a long net bag, to make candy leis from a completed model which showed the order of the candies which she then selected from a box in order to match those in the model. When a candy was in place, a curl ribbon was tied to separate it from the next candy.

M smiled at her aide frequently and made appropriate eye contact with her. The aide used a "high 5" hand slap to reward M for following directions (e.g., "get a box") and/or speaking. When M said "I need help" the aide said "Good asking" and gave her a high 5. A touch on the wrist was used to redirect M when her attention wandered or she began "stimming", i.e., exhibiting mannerisms common to many who have autism, such as rocking, hand flapping, random vocalizations, etc.

M also sorted sheets of paper (approx. 5" x 7") by color and in the process showed appropriate fine motor skill. At one point her aide asked M what day it was. M paused many seconds, reading from the board and said, intelligibly, "Monday, May 19<sup>th</sup>". She appears to read at about a second grade level or perhaps somewhat higher.

#### Observation of Natalie's Classroom

As I approached Natalie's classroom a young man who was yelling and flailing his arms about was being physically removed the room and escorted to a cool down area.

The classroom itself was busy. There were 5 boys and 1 girl, a teacher and at least 3 aides. The classroom had a kitchen area and preparation of Spam musubi was underway, with much activity and enthusiasm. The teacher told us they had talked about brown rice versus white and the health benefits of low sodium Spam. One student who has Down Syndrome was independently writing in a composition book. He looked up and asked "How do you spell 'argue'?" Another student also worked independently on a worksheet. The student who had been escorted out returned, still talking loudly, but otherwise calm and joined the boys, aides and teachers in the kitchen area. Unfortunately, N was absent.

However, I was able to examine N's journal. Her printing was large, but legible. She is currently practicing her signature in cursive writing. Her arithmetic pages were not quite as neat as Michelle's, but were legible and roughly comparable in grade level, i.e., about 2<sup>nd</sup> grade.

Observation of Natalie in her Classroom

N is 15 years and 10 months old. She is tall and slender with dark hair. She wears glasses. She has more autistic mannerisms than does her older sister, Michelle, and is in constant motion, e.g., knees jiggling, fingers repeatedly touching her face or "jumping" in her seat. She copied material which her aide (or teacher) had written for her (e.g., "yesterday our class went outside", etc.) into her journal. After copying it legibly, she read it aloud with fair intelligibility. While her speech was limited she was heard to say, "all done." At one point an aide gave to N a card to read to another other aide which said "I need to sign out." N. read it aloud and when asked "Where do you need to go?" she said "bathroom." When she returned from the bathroom she was making loud, unintelligible vocalizations and jumping up and down in a rapid, hopping movement.

The group "pre-vocational activity" for the day, done by one or two students and aides at a time, was making and eating cheese pizza (just before lunch, as was the Spam musubi two days earlier) on English muffins. N. was heard to say "I need cheese" during the activity. She required constant direction in order to assemble and bake the little pizza. An aide had to redirect her attention to the pizza when N became distracted by attempting to hold the hand of a male student.

In a bowl, N tentatively and gently mixed spices into some tomato paste. She became overly excited and began vigorous jumping. An aide redirected her to hand clapping as a more appropriate way to show pleasure.

At one point N became "scared". An aide did a "calming routine" with her. N has a photo-album with double-sided pages showing photos of herself using several different calming techniques.

N's and Michelle's classrooms are markedly different from each other. N's is busy and loud with male voices and much happening. The aides "circulate", helping as needed. Hands-on activities are in evidence. N herself vocalizes, with some intelligible speech; she uses vigorous body movements to express herself. At no time was she heard communicating with or to another student, but she did speak to aides as essential and did, twice, attempt to hold the hand of one of the male students.

Michelle's classroom is very quiet with little physical movement (at least during the hours observed). The aides work with the student to whom each is assigned. None of the students, except M, was heard to speak. The teacher, almost soundlessly, monitored the dyads, planned, and occasionally sat to work with a student while that student's aide left the room briefly. For the most part, M is similarly quiet and restrained.

### Conclusions

While in school, neither girl socializes beyond making rare and minimal requests from an adult. Neither speaks more than a few words and only occasionally. They both can read a bit, copy, and do some arithmetic. Both Michelle, age 17, and N, almost 16, function at approximately a primary level. Their communication and socialization skills are below that. As many earlier reports have stated, it is well known that a failure, as happened here, to provide early, intensive intervention, to young children who have autism results in irreparable harm to both communication and socialization. During the years 1994-1999 DOE failed to provide to the girls the autism – specific programs that were essential to their present and future development. For a child who has autism to be without an autism-specific program for 5 years in early childhood is perhaps roughly comparable to a non-disabled child being isolated from people and bombarded with meaningless stimuli for that period. An education program designed to meet the needs of a child with autism is an autism-specific program. Thus the programs these girls received were not designed to meet their needs at all.

Similarly, the non-autism-specific programs did not allow Natalie and Michelle any meaningful access to education during those years. Furthermore, their access to education is still limited because of their deficit in communication and socialization.

Respectfully submitted,

Dr. Barbara Bateman